

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

L.P.A. No.83 of 2007

Date of Decision: 23.3.2007

Smt.Kartaro and others

....Appellants through
Mr.M.S. Khaira,Sr.Advocate
with Mr.Abinash Singh, Adv.

Versus

Financial Commissioner and another

..... Respondents through

CORAM : HON'BLE MR.JUSTICE VIJENDER JAIN,
CHIEF JUSTICE.
HON'BLE MR.JUSTICE RAJIVE BHALLA

1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

VIJENDER JAIN, CHIEF JUSTICE

Apart from the fact that the present appeal suffers from delay of 230 days, we have heard learned counsel for the appellants on merits also.

Counsel for the appellants contends that the petitioners merely sought transfer of the Parcha claim from District Gurdaspur to District Ludhiana. The learned Settlement Commissioner, Punjab rightly transferred the Parcha claim of Sawan since deceased from District Gurdaspur to District Ludhiana. It is contended that the order of the Chief Settlement Commissioner, Jalandhar, whereby he set aside the aforementioned order is legally unsustainable, as is the order passed by the Financial Commissioner exercising the powers of the Central Government under Section 33 of the Displaced Persons (Compensation and Rehabilitation)

Act, 1954 (hereinafter referred to as 'the Act'). It is argued that the learned Single Judge, wrongly held that the appellant was guilty of misconduct, of having manoeuvred the authorities under the Act and of manipulating even the civil Court.

We have heard learned counsel for the appellants and perused the paper book.

The matter with respect to allotment, as also transfer of Parcha allotment stood settled as far back as on 31.10.1962, pursuant to orders passed by the Settlement Commissioner. A revision filed against this order was dismissed by the Chief Settlement Commissioner, vide order dated 21.1.1963. An application for review of the said order was dismissed on 26.11.1963. These orders attained finality. On 18.9.1970, an application was filed before the Managing Officer, for a fresh allotment of land, on the ground that the area allotted to Sawan deceased in village Beli had been cancelled. This application was rejected by the Managing Officer on 2.7.1971, on the ground that a duplicate Parcha claim had already been sent to Tehsildar, Gurdaspur, on 15.5.1961. The said order was impugned by way of an appeal before the Settlement Commissioner. The dismissal of the earlier appeal and revision were concealed. Mislead by the aforementioned concealment, the Settlement Commissioner remanded the case, vide order dated 28.9.1971 to the Managing Officer. While this matter was pending, Lal Singh filed an application praying therein that the claim of Sawan be transferred to Ludhiana District. The Deputy Secretary, Rehabilitation-cum-Chief Settlement Officer reviewed the order of the Assistant Settlement Commissioner dated 31.10.1962 and directed transfer of the Parcha claim to Ludhiana from Gurdaspur, vide order dated 23.4.1976. As a consequence

of these orders, a fresh allotment was made in Village Nurpur Bet, Ghaunspur and Jagirpur in Ludhiana District.

The Rehabilitation department re-examined the case and forwarded reference to the Financial Commissioner under Section 33 of the Act. The learned Financial Commissioner, returned a categorical finding that the orders were obtained by Surjit Singh, the General Power of Attorney by manipulation. It was also held that Surjit Singh, in order to delay the matter on one pretext or the other had filed a civil suit. It was also held that Chief Settlement Officer could not have reviewed the order of the Assistant Settlement Commissioner dated 31.10.1962 and the order of the Deputy Secretary, Rehabilitation dated 23.4.1976 was void-abinito, as the Parcha claim could not be transferred from Gurdaspur to Ludhiana, without sanction of the Government. The conduct of Surjit Singh was deprecated.

The learned Single Judge, after examination of the aforementioned facts, upheld the order of the learned Financial Commissioner. We find no illegality, error of jurisdiction or of fact that would require interference. The findings returned by the learned Financial Commissioner, as also by the learned Single Judge, cannot be faulted, on any account. The Deputy Secretary, Rehabilitation had no jurisdiction to pass the order, as the matter stood settled in 1962. No merit. Dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

23.3.2007
GS

(RAJIVE BHALLA)
JUDGE